

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,      :
                                :   S3 06 Cr. 34 (JFK)
      -against-                 :
                                :   MEMORANDUM OPINION
DAMION TOWNSEND,               :   and ORDER
      a/k/a "Poochie,"         :
                                :
                                :
      Defendant.               :
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JOHN F. KEENAN, United States District Judge:

The Government wishes to present evidence that on at least one occasion between April and July 2005 the Confidential Informant ("CI"), who was present in the defendant's car, observed the defendant delivering cocaine while defendant was armed with a handgun. Although the CI did not participate in the narcotics dealing on the day in question, "he was hanging out with [the defendant] that day." The defense objects to the introduction of this evidence.

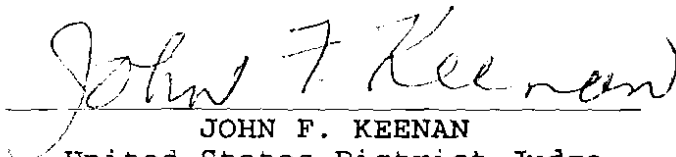
Assuming the CI can place the time of this event as being prior to the conspiracy alleged, July 12 to July 17, 2005, the Court views the evidence as admissible to establish background and to show the development of the criminal relationship between the CI and the defendant.

As to the tape recording between defendant and the CI regarding a July 28, 2005 alleged robbery of the CI, the Court

reserves decision until I listen to the recording and hear oral argument immediately after jury selection.

SO ORDERED.

Dated: New York, New York
May 4, 2007


JOHN F. KEENAN
United States District Judge